

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

MARCUS K. POWELL,)	
)	
Plaintiff,)	
)	No. 2:19-cv-02280-TLP-jay
v.)	
)	JURY DEMAND
NUCOR STEEL MEMPHIS and)	
SANDERS ENVIRONMENTAL,)	
)	
Defendants.)	

**ORDER ADOPTING THE MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION**

Plaintiff Marcus K. Powell sued pro se claiming sexual harassment and retaliatory termination by Defendants, Nucor Steel Memphis and Sanders Environmental. (ECF No. 1 at PageID 4.) Plaintiff later filed his First Amended Complaint, making many of the same claims. (ECF No. 13 at PageID 70.) Currently pending before the Court are three motions: (1) Plaintiff's Motion for Summary Judgment, (ECF No. 20); (2) Defendant Nucor's Motion for Denial of Plaintiff's Premature Motion for Summary Judgment or, in the alternative, for Extension of Time to Respond, (ECF No. 23); and (3) Plaintiff's Motion for Default Judgment or Extension to Serve, (ECF No. 25).

The Magistrate Judge considered these motions and issued a Report and Recommendation ("R&R"). (ECF No. 32.) First, the Magistrate Judge recommended that the Court deny without prejudice Plaintiff's Motion for Summary Judgment. (ECF No. 32 at PageID 175.) The Magistrate Judge found Plaintiff's Motion premature because discovery had not begun. (*Id.* at PageID 172.) As a result, the Magistrate Judge also recommended that the

Court deny as moot Defendant Nucor's Motion for Denial of Plaintiff's Premature Motion for Summary Judgment or, in the alternative, for Extension of Time to Respond. (ECF No. 32 at PageID 175.)

Finally, the Magistrate Judge recommended the Court grant in part and deny in part Plaintiff's Motion for Default Judgment or Extension to Serve. (ECF No. 32 at PageID 175.) The Magistrate Judge found Plaintiff failed to serve Defendant Sanders within 90 days, as required by Federal Rule of Civil Procedure 4(m), but had established good cause for doing so. (*Id.* at PageID 173–74.)

The Magistrate Court also found that, because Plaintiff has not served Defendant Sanders properly, Plaintiff is not entitled to default judgment. (*Id.* at PageID 174.) As a result, the Magistrate Judge recommended that the Court deny Plaintiff's Motion for Entry of Default but grant his Motion for an Extension of Time, allowing Plaintiff thirty (30) days to properly serve Defendant Sanders. (*Id.*)

Under Federal Rule of Civil Procedure 72(b)(2), “[w]ithin 14 days of being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations.” Fed. R. Civ. P. 72(b)(2). Neither party objected to the R&R, and the time for filing objections has expired. *See* Fed. R. Civ. P. 5(b)(2), 6(d), 72(b)(2). When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Fed. R. Civ. P. 72(b) advisory committee notes.

Having reviewed the R&R, the Court finds no clear error and ADOPTS the R&R in its entirety. Accordingly, the Court **DENIES WITHOUT PREJUDICE** Plaintiff's Motion for Summary Judgment. The Court also **DENIES** as moot Defendant Nucor's Motion for Denial of

Plaintiff's Premature Motion for Summary Judgment or, in the alternative, for Extension of Time to Respond. Finally, the Court **DENIES** Plaintiff's Motion for Entry of Default but **GRANTS** Plaintiff's Motion for an Extension of Time to serve process, allowing Plaintiff thirty (30) days to properly serve Defendant Sanders.

The Clerk is directed to issue alias summons for Defendant Sanders and Plaintiff shall have thirty (30) days from the issuance of the summons to serve Defendant Sanders.

SO ORDERED, this 28th day of October, 2019.

s/Thomas L. Parker
THOMAS L. PARKER
UNITED STATES DISTRICT JUDGE
